



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

CCB/141646

PRELIMINARY RECITALS

Pursuant to a petition filed June 14, 2012, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Waukesha County Health and Human Services in regard to Child Care, a hearing was held on September 25, 2012, at Waukesha, Wisconsin.

The issue for determination is whether petitioner's appeal was timely filed.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

Department of Children and Families
201 East Washington Avenue, Second Floor
Madison, Wisconsin 53703-2866

By: Shelly Wiese, Economic Support Worker
Waukesha County Health and Human Services
500 Riverview Avenue

Waukesha, WI 53188

ADMINISTRATIVE LAW JUDGE:

Michael A. Greene
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Waukesha County.
2. On April 24, 2012 the agency sent petitioner a notice of decision advising her that her eligibility for Child Care benefits would be ending effective April 1, 2012. The notice also described

petitioner's right to appeal the decision and stated that any appeal had to be received by the Division of Hearings and Appeals by June 8, 2012 (Exhibit 2).

3. Petitioner's appeal was received on June 14, 2012.

DISCUSSION

A hearing officer can only hear cases on the merits if he or she has jurisdiction to do so. There is no jurisdiction if the hearing request is untimely. An appeal of a negative action by a county agency concerning Child Care benefits must be filed within 45 days of the effective date of the negative action, Wis. Admin. Code §HA 3.05(3). The negative action in this case was the termination of petitioner's Child Care eligibility and the effective date of that negative action was April 24, 2012. The petitioner's request for hearing was filed with the Division of Hearings and Appeals on June 14, 2012, 51 days after the effective date of the negative action. Thus, the hearing request was untimely and I do not have jurisdiction to consider the merits of the case, *Wis. Admin. Code* §HA 3.05(4)(e).

CONCLUSIONS OF LAW

This administrative law judge does not have jurisdiction over this appeal because it was not timely filed.

THEREFORE, it is

ORDERED

That the petition for review herein be and hereby is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Children and Families. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 201 East

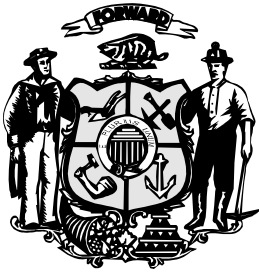
Washington Avenue, Second Floor, Madison, Wisconsin 53703-2866. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 27th day of September, 2012

Michael A. Greene
Administrative Law Judge
Division of Hearings and Appeals

c: Waukesha County Health and Human Services - email
Department of Children and Families - email



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on September 27, 2012.

Waukesha County Health and Human Services
Child Care Benefits